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Five Big Estate Planning Mistakes — and Why You Should Act Now

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Each year, I revisit the most common estate planning missteps I see in my practice. These mistakes cost families time, money, and peace of mind. If you've been putting off your plan, consider this your annual nudge to take action. Tomorrow is never guaranteed; start today.

#5 - Inequity

Trying to treat everyone 'equally' can be just as problematic as treating loved ones differently because you think they don't need (or, perhaps, don't deserve?) anything. Maybe you've given more to one child already and plan to 'balance things' later. Unless you're prepared to include a detailed accounting (and even then), think twice.

The same goes for naming fiduciaries (executor, trustee, attorney-in-fact) based on perceived fairness. Choose the right person for the job, not the one who 'should' do it (for instance, because they're the oldest.) And please, resist naming your only two kids as co-fiduciaries without a clear tie-breaker. Two decision-makers with no way to resolve a deadlock means one thing: court intervention. If you insist on co-equals, at least give them a mechanism to break ties (best two out of three coin flips, anyone? Rock, paper, scissors, perhaps?).

#4 - Sentimentality

Assuming you know what your loved ones will want, or won't want, is a recipe for conflict. People rarely talk openly about what matters to them, and even if they say, 'I don't want anything,' that may not be the whole truth. Style, space, and timing all play a role. Over-communicate rather than under-communicate. Force the conversation, even if it's uncomfortable. It beats leaving behind a family feud over misperceived intentions.

#3 - Communication

Failing to involve all beneficiaries (even minimally) is a major mistake. You don't need to give everyone a vote, but you should let them know a plan exists and where to find it. You might even consider a couple options to help arm against an undue influence claim later. Tell everyone if/when you change the plan (not just the person caring for you who you come to believe now deserves something more). Here's one I've not yet seen tried: give everyone a copy and include a provision that says you conditionally give up the right to change your will and that no future changes shall be effective unless you communicate them yourself to all of your beneficiaries along with a copy of the new document(s). Confirm with those who will have roles: executor, trustee, guardian. They may not want or be able to serve. And always name backups (and backups to backups). A little foresight here prevents a lot of chaos later.

#2 - Indecision

Changing your plan isn't wrong, but timing matters. Last-minute changes—especially near death or after cognitive decline—invite litigation and resentment. If you revise, communicate clearly and broadly. Unexplained changes breed hostility, even among those who benefit. Transparency is your best defense against family discord.

#1 - Inertia

The biggest mistake? Doing nothing. As Harvey Mackay famously said: "*Failing to plan is planning to fail.*" Not creating a will or other directives means you've chosen the default: a costly, time-consuming mess for your loved ones. ***Don't let intestacy dictate your legacy.*** Make a plan and execute. Do it now.